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Supreme Court, U.S.
FILED

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No._____.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1999

PRINCE EADY

Petitioner

vs

SUPERVALUE TRANSPORTATION INC.
JOHN SKULL

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WISCONSIN

PETITION FOR A WRIT OF CERTIORARI

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29pp

QUESTIONS PRESENTED

1. **Should an Afro-American litigant have a federally protected constitutional right to have Afro-American representation on a jury in districts where Afro-Americans are a distinctive group?**

LIST OF PARTIES TO THE ACTION

The parties to the action in the lower courts and before the Supreme Court of Wisconsin were:

Prince Eady, plaintiff, and appellant in the Wisconsin Court of Appeals and Petitioner in the Wisconsin Supreme Court.

Supervalue Transportation Inc. and John Skull, defendants and respondents in the Wisconsin Court of Appeals and in the Wisconsin Supreme Court.

Supervalue Transport Inc. is a subsidiary of Supervalue Inc., and has no subsidiaries.

Petitioner appeared in all lower courts by S.A. Schapiro, 4465 N. Oakland, Milwaukee Wis. 53211

Respondents appeared in all lower courts by Mueller, Goss and Possi, 744 N. 4, Milwaukee Wis. 53203.

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OPINION BELOW

The Wisconsin Supreme Court denied the petition to bypass the Wisconsin Court of Appeals and review this case without comment. (See Appendix p. 1).

(The Wisconsin Court of Appeals has error correcting functions only and for that reason cannot decide the issues that were presented below.

Deegan v. Jefferson County 525 NW2d 149, 188 NW2d 544, rev. den. 531 NW2d 327(Ct. App. 1994).

JURISDICTION AND CONSTITUTIONAL PROVISIONS

The order of the Wisconsin Supreme Court is dated Feb. 22, 2000. No rehearing proceedings are available in said court and no extension of time has been sought to file this petition for a writ of certiorari.

The constitutional provisions involved in this case are those underlying the right of equal protection of the 14th amendment, the right to an imp-artial jury under the 6th amendment and the right of an Afro-American not to be stigmatized with a badge of slavery, of the 13th amendment. These are set forth in the appendix. The Court has jurisdiction for certiorari under 28 USC 1257(a).

STATEMENT OF THE CASE

Plaintiff, an Afro-American sued the defendants for personal injury damages. The individual defendant John Skull is caucasian. Wisconsin statute 756.001(4) provides for random selection of the jury array from a pool of jurors standing by in Milwaukee County Wisconsin, in which county Afro Americans are a distinctive group, as that term has beenenunciated to mean, by the United States Supreme Court. Random selection is done by computer generation of names from the pool. The computer by happenstance, generated a panel of 25 veniremen all caucasian. The Court denied the petitioner's request for a new array from the jury pool or calling Afro American jurors from the pool for voir dire. An all white jury was impaneled and found for the defendants.

Petitioner appealed to the Wisconsin Court of Appeals, and as the sole basis for seeking a new trial, raised the argument that there should be enunciated a federal or state constitutional maxim that would require the jury commissioners to provide Afro American veniremen in Milwaukee County when there was an Afro American litigant on at least one side of the case coming on for trial. The Wisconsin Court of Appeals is error correcting only, and has no authority to enunciate such a rule. Deegan v. Jefferson County, 525 NW2d 149, 188 W2d 544, rev. den. 531 NW2d 327(Wis. App. 1994).

Petitioner asked for the Wisconsin Supreme Court to take the case and resolve the issue raised. It denied the petition filed therein.

REASONS FOR GRANTING THE PETITION

The following are the reasons for granting the petition:

1. This issue was previously raised, and, when raised, was not entertained, but put over "for another day" when it was presented on a 6th amendment fair cross section requirement that was advocated to be applied to the petit jury. (O'Connor J., in Teague v. Lane 489 US 288, 198 S.Ct. 1060, 103 L.ed. 2d 334(1989) reh. den.) The issue when raised in lower federal courts has had rulings based on 6th amendment fair and impartial juror bases, 14th amendment equal protection bases and even 13th amendment "badge of slavery" bases. The source of law, resultingly, is inconsistent and in disarray and a decision of the United States Supreme Court is appropriate to establish the source of law and its applicable parameters.

2. This is an important question of federal constitutional law that should be resolved by an opinion of the Supreme Court. The disinclination to entertain the issue and adopt the maxim here advocated, is an affront to the Afro-Americans, both those seeking vindication or their rights, and Afro-American jurors to whom equal protection rights have been extended by judicial fiat.

3. The state court of appeals is powerless to resolve the issue raised and the state supreme court has refused to consider entertaining the issue raised under equal protection grounds in the state courts.

ARGUMENT

I. THE REASONS THAT THE COURT SHOULD GRANT THE PETITION AND RESOLVE THIS ISSUE ARE COMPELLING.

Those reasons are as follows:

A. The case trend regarding the rights of distinctive groups in communites where they are so situated, is expansive, and the trend should continue for expansion as to this proposed right to be afforded to Afro-Americans in such communities. The previously stated maxims are:

1. Afro americans may not be excluded from jury service by state law under the 13th and 14th amendments. Strauder v. West Virginia, 100 US 303, 25 L.ed. 664 (1880).

2. The federal government, under the 14th amendment, may enforce by legislation, any state action that barred afro americans from serving on grand or petit juries. Ex Parte Virginia , 100 US 339, 25 Led. 676 (1880).

3. States may not systematically exclude afro americans from petit and grand jury service under the 14th amendment and demographics and historical facts were considered in making that ruling . Norris v. Alabama, 294 US 587, 55 S.Ct. 579, 79 L.ed. 1074 (1935).

4. Plaintiffs in civil actions are entitled to have an impartial jury drawn from a cross section of the community without any systematic exclusion of any particular group. Thiel v. Southern PacifiC Co.,66 S.Ct. 984, 328 US 217, 90 L.ed. 1181(1946) (non racial holding).

5. The selection must be from a broad spectrum of the community Smith v. Texas 311 U.S. 128, 61 S.Ct. 164, 85 L.ed. 84 (1940).

6. A later case dealing with racial limitations in jury representation was Swain v. Alabama 85 S.Ct. 824, 380 U.S. 202, 13 L.ed.2d 759(1965) reh. den. 85 S.Ct. 1528, 381 US 921, 14 L.ed.2d 442 wherein it was held that a purposeful showing would have to be made that, in the history of the specific jurisdiction, there was discriminatory underrepresentation of a long standing, against a specific racial group in the jury pool, in order to establish a violation of equal protection guarantees.

7. The right to minority representation in the jury was strengthened in requiring a "fair cross section" of the community be reflected and that such a showing would require the party objecting to the pool to show distinct group exclusions or underrepresentations by systematic exclusions. Taylor v. Louisiana 419 US 522, 95 S.Ct. 692, 42 L.ed. 2d 690(1975).

8. In Batson v. Kentucky 476 US 79, 106 S.Ct. 1712, 90 L.ed. 2d 69(1986) the degree of protection of equal representation on juries was elevated in favor of distinct groups, by requiring a showing on the part of a party using a peremptory strike, that the strike was race neutral. The trial court was made the arbiter as to whether such explanations were valid or contrived. The rule of Swain and Taylor, requiring a showing of systematic exclusions or underrepresentations in the pool was discarded. And in Batson, the spotlight shifted from jury pool composition to the array in the courtroom itself, and from the 6th amendment in such instances, to the equal protection clause of the 14th amendment, the latter being the source of law the Supreme Court of the United States selected to protect distinctive groups in petit jury selection.

9. The Court again examined the jury selection right in petit juries in a criminal matter, Powers v. Ohio, 499 US 400, 111 S.Ct. 1364, 113 L.ed.2d 411(1991), where the right to have members of distinctive racial groups on a petit jury was extended to parties not members of that group, making it a requirement that any peremptory challenge against one who is a member of a specific racial group (most notably and in the case at bar, afro-americans) must be race neutral. This burden of showing race neutral strikes in criminal cases was imposed on peremptory challenges made by a criminal defendant, the opposite situation in Powers, in Georgia v. McCollum 505 US 42, 120 L.ed2d 33, 112 S.Ct. 2348(1992).

10. The same rule of Batson requiring race neutral strikes was applied to both parties in civil cases in Edmondson v. Leesville Concrete Co. 500 US 614, 111 S.Ct. 2077, 114 L.ed.2d 660(1991).

11. In equal protection matters, where race is involved in a particular practice, strict scrutiny must be given by the courts to the matter before it. McLaughlin v. Florida 379 US 184, 85 S.Ct. 283, 13 L.ed.2d 222(1964).

The foregoing line of cases is presented to show the unmistakable trend of the United States Supreme Court in prior decisions towards the issue now presented herein, namely, that afro american litigants not only have the already enunciated right to have members of their race in the jury pool, and the already enunciated right to have members of their race included in the jury by barring peremptory challenges that are not race neutral, but , also, the Court should establish the right of such litigants to have a member of their race in every array brought to the courtroom in fact situations as that in the case at bar; otherwise the race neutral peremptory strike requirement of Batson, which embodies the equal protection rights of afro americans, is thereby rendered meaningless and inconsequential.

II. VALID AND COMPELLING REASONS EXIST WHY THE FEDERAL CONSTITUTIONAL GUARANTEES ADVOCATED HEREIN SHOULD BE PROVIDED TO LITIGANTS WHO ARE AFRO AMERICANS, A DISTINCTIVE GROUP LONG SUBJECT TO SOCIAL DISADVANTAGE.

There are a series of reasons why such a rule should be adopted under the federal constitution on either 6th, 13th or 14th amendment equal protection bases:

A. The basic underpinning of equal protection is rooted in the undisputable fact that afro-americans have been subject to a history of unequal treatment, resulting in social disadvantage, and thus a "suspect class" deservant of equal protection guarantees .

One cannot justifiably deny that afro-americans have been the target of social disadvantage and disability, and the subject of unequal treatment and various degrees of stigmatization. It is precisely for such situations that the equal protection clause was conceived, namely, to command extraordinary protection from the eccentricities of political processes and strict scrutiny of the practice under examination is required. Massachusetts Board of Retirement v. Murgia 96 S.Ct. 2562. 427 U.S. 307, 49 L.ed. 2d 520 (1976). All that the one challenging the specific practice must show, is that he has a fundamental interest involved in the method by which the practice is conducted, here , petit jury selection. As noted above, in Batson v. Kentucky, supra, and Edmondson v. Leesville Concrete Co. Inc., supra, both the litigant and the afro american juror have a fundamental interest in how juries are selected from a racial perspective and by precedent cited hereinabove,

that right has been explicitly guaranteed by the Constitution of the United States. The right advocated here is merely an extension of that right to the constitution of petit juries, and not a newly conceived constitutional right. When the constitution was written, computers were unthinkable; yet now, silicon has dislodged the human instrumentality as the petit jury array selector, and, when it by happenstance fails to provide a cross section of the community with an afro american juror, its chance selection technique must not be allowed to be final.

B. Nobody is harmed, limited or adversely affected by the adoption of the rule; on the contrary, there is benefit to afro americans and a clear recognition of them as a socially disadvantaged group.

In many constitutional scenarios, where rights are at stake, rights have been balanced against competing rights in society. Not so in the situation at bar. Here, should the rule advocated by plaintiff be adopted harm comes to nobody as there are no competing rights of other groups at stake. A pure benefit arises to afro americans with no detriment to any other group.

C. It is not burdensome upon the court or legal system to call members of the subject group from the jury pool, since the rule is sought to be applied in only those jurisdictions where a trial court finds that the group constitutes a significant segment of the population, and thus, a member of the group obtains his day in court before a jury of his peers.

There is no compelling state interest to support the continuance of the present system of jury selection, by computer generation not overseen by court

implementation, when racial exclusions occur in the array selection by happenstance.

The only conceivable state interest affected would be the minor inconvenience of having the jury commissioner called to send afro american veniremen to the courtroom. This is nothing more than a slight inconvenience and slight inconveniences should not be such to impair the providing of a meaningful constitutional right, much less a fair trial.

In districts where Afro-Americans are a distinctive group, there are always afro americans in the jury pool, available to be summoned. Should no afro americans be in the array (as is the situation at bar) and only caucasians are called are to sit in judgment on an afro american party to a legal proceeding, a call to the jury commissioner to send afro american jurors to the courtroom is imperative. The operation of the constitutional right to equal protection must not be left to the chance. Such computer generated pool selections must be backed up by human efforts to insure that equal protection guarantees are meaningful and enforced. To let a computer be the final arbiter may, and in the instant case, has operated to the peculiar disadvantage of plaintiff, an afro american, a member of the disadvantaged class. His fundamental right to a jury containing a cross section of the community has been infringed.

D. <u>The questioning of jurors in voir dire, with respect to any assurances on their part, to set aside prejudices and decide the issues of the case on the facts alone, deals with fiction. People who harbor long term feelings against afro americans simply do not set those feelings aside on the suggestion of the court or counsel.</u>

One would be naive to believe that jurors operate free of any racialor ethnic influences on their

judgments and perspectives. Deep seated prejudices will not be eliminated; however, in the presence of a member of the disadvantaged group on the jury sitting in judgment on another member of that group, those prejudices will not be broadcast to the remainder of the jury. Thus, though existing, they would be suppressed. This enhances the rendering of justice in all such cases. After all, mere promises of the equal protection clauses of the state and federal constitution do not mean these promises are automatically fulfilled. As was stated by Justice Black in Smith v. Texas, supra:

> "It is part of the established tradition in the use of juries as instruments of public justice that the jury be a body truly representative of the community. For racial discrimination to result in the exclusion from jury service of otherwise qualified groups not only violates our Constitution and the laws enacted under it but is at war with our basic concepts of a democratic society and a representative government...The fact that the written words of a state's laws hold out a promise that no such discrimination will be practiced is not enough. The fourteenth amendment requires that equal protection to all must be given not merely promised." (311 US 128 at p. 130)

What should be an established and inalienable right, should not be relegated to a right occasioned by mere possibilities. The happenstance computer selection of jurors does not insure the availability of the right to a trial by jury of one's peers, and must be supplemented by affirmative trial court action effectuating the imposition of that right so the right can be actual, not merely potential or possible. The only way that such a right can be assured, is for the Court to summon from the jury pool, additional afro american veniremen so

that a fair cross section of the community may be achieved.

E. Constitutionally protected rights are by their basic definition and nature, inalienable; thus, any eccentricities or defects in the procedure whereby such rights are subject to defeasance, must be remedied by affirmative court action to protect those rights.

This is no burden on the courts to accomplish. The inalienable nature of such rights overrides any thought of inconvenience in enforcement of the protected rights to make the rights meaningful, not available by happenstance or chance.

F. Basic reasoned jurisprudence supports the concept that an array's composition should not be left solely to chance, but should be governed by the court's revision when, by happenstance, a socially disadvantaged group is excluded from the array in litigation involving a member of that group.

As is pointed up above, the array was obtained from a jury pool properly chosen, but, by the happenstance of the workings of technology, the array came out all white. The application of and providing of equal protection guarantees should not be left to be granted or denied by the eccentricities of software. Spinning wheel drums and silicon chips were designed to meet standards of technology, but not the standards that should be required to afford all persons alike, their equal protection of the laws. Equal protection rights are rendered meaningless when their availability is left to chance and vanish, when a chance result deprives a litigant of a fair cross section of the community. Thus, when technology fails to provide the required protection afforded by state and federal constitutions,

the Courts must intervene by establishing a means whereby such equal protection rights shall be meaningful and provided. The chance or circumstancial happenstances of spinning wheels or the wonders of silicon should not water down constitutional rights of equal protection that litigants expect. A basic minimum of protection should be afforded by court rule when these peculiar methodologies of array selection deviate from the expected constitutional standards. Plaintiff respectfully submits that when such procedures fail to provide the required representation on an array, that the Court be required to summon from the central jury assembly, additional jurors until the disadvantaged group involved in the litigation is represented in the array to satisfy the requirements of either the 14th amendment's equal protection guarantees or the 6th amendment's fair and impartial jury stringencies.

G. The "crucial question" in all equal protection cases, namely, whether there is an appropriate governmental interest suitably furthered by the differential treatment, is conclusively answered NO.

Appellant finds no governmental interest, APPROPRIATE OR OTHERWISE for a court to proceed with an all white array picked by a computer when there are afro americans available to serve. The crucial question, therefore must be answered resoundingly NO, and the practice of proceeding into trial under such circumstances, wherein there is an afro american litigant, must be ruled as transgressing the equal protection rights of both the litigant, as well as the unselected afro american juror(s), thereby serving no governmental interest.

H. There is no rational basis or justification for moving on to trial with an all-white array when the happenstance of an all white computer selection occurs.

Under the rational basis analysis, classifications will be upheld if there is a rational basis to support the same. This applies even though those classifications are not legislatively created but have arised by reason of procedures adopted by the courts, and as such are subject to equal protection scrutiny. Columbus Board of Education v. Penick, 99 S.Ct. 2491, 443 US 449, 61 L.ed. 666, reh. den. 100 S.Ct. 186, 444 US 887, 62 L.ed. 2d 121, on remand, 519 F.S. 915,affd. 663 F. 2d 24; Shelley v. Kraemer, 334 US 1, 14 S.Ct. 836, 842-3, 92 L.ed. 1161, 1181(1948).

There is no conceivable basis, much less a rational one, to allow a case to move forward into trial without Afro-Americans in the selected array where at least one litigant is Afro-American, in districts where Afro-Americans are a distinctive group.

I. The lower federal courts, when considering the issue, have developed conflicting or altenating sources of law as to the basis for juror selection procedures that are supposed to meet federal constitutional standards.

An examination of the opinions dealing with distinctive group representation on petit juries is inconsistent and has given rise to uncertainty as to the source of law and its applicable parameters. For instance, the 6th amendment has been applied by some federal courts as the source of the fair cross section requirement - U.S. v. Alix, 86 F3d 429 (5th circ. 1996 Texas); U.S. v. Tapia 59 F3d 1137, cert. den. 116 S.Ct. 401, 516 US 953, 133 L.ed. 2d 321; cert. den.116 S.Ct.

546, 516 US 1001, 133 L.ed. 2d 449 (11th circ. Fla., 1995); Miller v. Lockhart 861 FS 1425, affd. 65 F3d 676(E.D. Ark. 1994); U.S. v. Biaggi 673 F.S. 96, affd. 853 F.2d 89, cert. den. 109 S.Ct. 1312, 489 US 1052, 103 L.ed. 3d 581(E.D.N.Y 1987).

Contrarily, other federal courts have used the 14th amendment equal protection clause as the source of law providing for the fair cross section requirement: U.S. v. Grisham, 841 FS 1138, affd. 63 F.3d 1074(N.D. Ala. 1994) cert. den. 116 S.Ct. 798, 516 US 1084, 133 L.ed. 2d 746; U.S. v. Horne 4 F3d 579, reh. and suggestion for rehearing en banc denied, cert. den. 114 S.Ct. 1121, 510 US 1138, 127 L.ed. 2d 430(C.A. Minn. 1993). 1

Still other cases hold the 6th and 14th amendment provisions are implicated together: Morgan v. U.S. 696 F.2d 1239(C.A. Wash. 1983); Lindsey v. Smith 820 F.2d 1137, reh. den. 828 F.2d 775, cert. den. 109 S.Ct. 1327, 489 US 1059, 103 L.ed.2d 595, reh. den. 109 S.Ct. 1771, 490 US 1031, 104 L.ed 2d 206(11th circ. Ala. 1987).

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1. There are also suggestions that the use of the "badge of slavery" prohibition of the 13th amendment be used to support a federally based constitutional right of distinctive group representations on petit juries thru the language of Jones v. Alfred H. Mayer Co. 392 US 409, 88 S.Ct. 2186, 20 L.ed. 2d 1189(1968), under the concept of he universal freedom guarantee of the 13th amendment. Jones' progeny has been applied in other areas wherein racial issues arose: e.g., Williams v. City of New Orleans 729 F.2d 1554(1984)(underrepres entation of Afro Americans on the police force was a "badge of slavery", thus to humiliate Afro Americans to a community requirement. The all-white jury, resultingly, has been denounced as a badge of slavery and contrary to the philosophy of the civil rights act of 1866. See Colbert, Challenging the Challenge: Thirteenth Amendment as a Prohibition Against the Rcial Use of Peremptory Challenges, 76 Cornell L.Rev. 1, 101-110(1990).

CONCLUSION

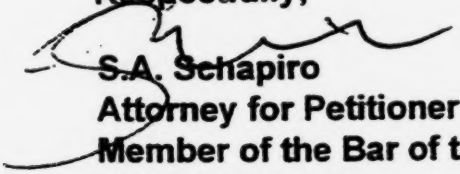
It is prayed that the Court grant the petition for certiorari and entertain the issue that is sought to be resolved, namely, the enunciation of a rule that in districts where there is found by a trial court to have a significant number of afro americans that the array that is brought to the courtroom for voir dire be required under the federal and state equal protection guarantees, to have afro american representation, when there is litigation involving afro americans on at least one side of the litigation and that this case be remanded to the circuit court for a new trial under such constitutional guidelines. As noted hereinabove, there is no governmental interest furthered by limiting all white veniremen selected at random, to sit in judgment on afro americans and nobody is either harmed or offended by requiring the summoning of afro americans to the courtroom from, the jury assembly room when an all white array is computer generated. On the contrary, it enhances the feeling of equal justice for both the litigant and the juror, for such further summoning to be ordered.

It is prayed the Court grant the petition and enunciate a rule under the appropriate constitutional provisions that provides Afro American litigants the guarantee of members of their race on jurors summoned to the courtroom in communities where they are a distinctive group.

After all, what good is it to provide a constitutional right, only to have it vanish by chance and happenstance?

March 8, 2000

Respectfully,



S.A. Schapiro
Attorney for Petitioner
Member of the Bar of the
United States Supreme Court

APPENDIX

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STATE OF WISCONSIN
IN SUPREME COURT

PRINCE EADY
Plaintiff-appellant-petitioner 99-1260

vs

SUPERVALUE TRANSPORT INC.
JOHN SKULL
Defendants-respondents

The Court having considered the petition to bypass the court of appeals submitted on behalf of plaintiff-appellant Prince Eady in this case.
IT IS ORDERED that the petition to bypass is denied with $50 costs.

Cornelia G. Clark
Acting Clerk of the Supreme Court

TRIAL COURT PROCEEDINGS : R. 55:1-6.

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

PRINCE EADY 97 CV 5494

Plaintiff

VS

PROCEEDINGS IN VOIR DIRE
JURY TRIAL EXCERPT OF PROCEEDINGS

SUPERVALUE TRANSPORT INC.
JOHN SKULL

Defendants

THE COURT:
This process that the clerk's office uses as I understand it, is a process that utilizes three separate lists. Those lists are voter lists, motor vehicle registration lists and driver's licenses lists. They call in at random from those lists 300 people. And from that —or 100 or however number they bring in every Monday and Wednesday. And from that group a hundred, and, excuse me, from that group 25 are sent to each courtroom when a jury is asked for. But I'm not aware of any case anywhere in this country that says on any given jury the—you know, there is a right to have a cross section of the community on that jury. It just says that the method by which panels are selected must allow for a fair representation. And then there's another line of cases, and I don't know the case that you're talking about, quite frankly, I dont know what it says. I'm not familiar with

the case, the citation, the name. I'm familiar with the principles. There's another series of cases that talks about what kind of jury — the jury selection process and what lawyers can do in striking jurors from a panel and prohibiting strikes which appear to be based on race and requires that lawyers be prepared to provide rationale for their strikes in situations where it appears that race may be a motivating factor.That isn't the issue here based upon the challenges being made and that challenge is there aren't enough minority people on the body of 20or 25 that came up here. I don't think you're entitled to a cross section of the community on every panel. You're entitled to a process which allows for a cross section of the community to be selected for jury service. And as I understand what your argument is, that with respect to the 24 people that were brought up here, these is one of the 24, Mr. Valadez who's clearly hispanic and there is another one, Mr. Gladden who may be of some ethnic heritage other than anglo saxon, but I don't know...."

Sec. 756.001-State Policy on jury service; opportunity and obligation to serve as juror

(1)***
(2) ***
(3)***'
(4) All persons selected for jury service shall be selected at random from the population of the area served by the circuit court. All qualified persons shall have an equal opportunity to be considered for jury service in this state and the obligation to serve as jurors when summoned under this chapter for that purpose. Any manual or automated method of selection that provides each qualified person with an equal probability of selection for jury service or that provides each prospective juror with an

equal opportunity for assignment to a particular trial may be used.
(5)***

AMENDMENT VI UNITED STATES CONSTITUTION

In all criminal prosecutions the accusted shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed,which district shall have been previously ascertained by law...

AMENDMENT XIII UNITED STATES CONSTITUTION

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted shall exist within the United States, or any place subject to their jurisdiction.
SECTION 2. Congress shall have the power to enforce this article by appropriate legislation.

AMENDMENT XIV UNITED STATES CONSTITUTION
(EQUAL PROTECTION PROVISIONS)
SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shalla bridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.